

1980

c 51 The Boundaries Act, 1980

Ontario

© Queen's Printer for Ontario, 1980

Follow this and additional works at: http://digitalcommons.osgoode.yorku.ca/ontario_statutes

Bibliographic Citation

The Boundaries Act, 1980, SO 1980, c 51

Repository Citation

Ontario (1980) "c 51 The Boundaries Act, 1980," *Ontario: Annual Statutes*: Vol. 1980, Article 53.

Available at: http://digitalcommons.osgoode.yorku.ca/ontario_statutes/vol1980/iss1/53

CHAPTER 51

An Act to revise The Boundaries Act

Assented to November 14th, 1980

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

(a) "Director" means the Director of Titles appointed under *The Land Titles Act*;

R.S.O. 1970,
c. 234

(b) "monument" means any device or object used to mark or witness a boundary;

(c) "parcel" means an area of land described in an instrument by which the title to an interest in land is or was established or an area of land shown on a plan and includes a public highway or any part thereof;

(d) "prescribed" means prescribed by the regulations made under this Act;

(e) "surveyor" means an Ontario land surveyor authorized to practise under *The Surveyors Act*. R.S.O. 1970, c. 48, s. 1, *amended*.

R.S.O. 1970,
c. 452

2. The Minister of Consumer and Commercial Relations is responsible for the administration of this Act. 1972, c. 1, s. 29.

Adminis-
tration

3.—(1) Where doubt exists as to the true location on the ground of any boundary of a parcel, an application, in the prescribed form, may be made to the Director to confirm the true location of the boundary on the ground.

Application
for
confirmation
of
boundaries

(2) The Minister of Transportation and Communications, the council of a municipality or an authority having jurisdiction over a public highway may apply to the Director, in the prescribed form, to confirm the true location of the boundaries on the ground of a public highway under its jurisdiction.

Public
highways

Who may
apply

(3) An application to the Director under subsection '1 may be made by,

- (a) the owner of an interest in the parcel;
- (b) the council of the municipality in which the parcel is situate;
- (c) a Minister of the Crown;
- (d) the Surveyor General of Ontario;
- (e) the Surveyor General of Canada; or
- (f) with the consent of the owner of an interest in the parcel, a surveyor. R.S.O. 1970, c. 48, s. 4, *amended*.

Contents
of
application

4.—(1) An application under section 3 shall be accompanied by,

- (a) a copy of an up-to-date plan of survey, signed by a surveyor indicating the location on the ground of the boundary or boundaries to be confirmed;
- (b) a copy of the field notes of the survey; and
- (c) such other information or material as is prescribed.

Further
materials

(2) The Director may at any time require an applicant to furnish such additional or other information or material as he specifies. *New*.

Where
Director
may
initiate
proceedings

5.—(1) The Director, of his own initiative, may initiate proceedings under this Act and may engage a surveyor to make a survey and plan of the parcel or any boundary thereof. R.S.O. 1970, c. 48, s. 6, *amended*.

Costs

(2) Where the Director initiates proceedings under subsection 1, the costs of and incidental to the proceedings may, on an application to the Director of Land Registration, be paid out of The Land Titles Survey Fund established under subsection 1 of section 63 of *The Land Titles Act*, and subsections 3 to 5 of the said section 63 apply to an application under this subsection. *New*.

R.S.O. 1970,
c. 234

Costs of
municipality

6. Where an application under this Act has been made by or on behalf of the council of a municipality, the costs of and incidental to the application shall be borne by the municipality and, except where the purpose of the application is to confirm the location of the boundaries of a public highway, the costs may be recovered by the levy of a special rate of assessment on all parcels included in the application.

7. The Director shall cause a notice of an application under this Act to be given in such manner and to such persons as he considers proper in the circumstances and the notice shall set out the purpose of the application and the time fixed for delivering objections to the Director and, where a copy of the plan is not included with the notice, the notice shall state the place where a copy of the plan may be inspected. R.S.O. 1970, c. 48, s. 9, *amended*. Notice of application

8.—(1) Any person desiring to object to the location of the boundary or boundaries to be confirmed, as shown on the plan of survey, shall deliver to the Director, by registered mail or by personal service within the time fixed by the notice of application, a written statement setting forth the nature and grounds of the objection. R.S.O. 1970, c. 48, s. 10, *amended*. Objection

(2) Where a written statement of objection is received, the Director shall afford an opportunity for a hearing to determine the validity of the objection. Hearing

(3) Where the time specified in the notice of application has expired and no objection has been received, the Director, if he is satisfied by the application and the material filed in support thereof, may, without convening a hearing, confirm and, when the surveyor has complied with section 14, certify the location of the boundary or boundaries as shown on the plan of survey. Confirmation without hearing

(4) Where the Director is not satisfied by the application and the material filed in support thereof, he may convene a hearing and require any person he considers necessary to appear at the hearing to give evidence. Hearing where Director is not satisfied by application

(5) The applicant, any person who delivers a statement of objection under subsection 1 and such other persons as the Director may specify, are parties to the proceedings for the confirmation of the boundary or boundaries. Parties

(6) The Director shall cause a notice of hearing under this section to be given, in a manner prescribed by the regulations, to the parties and to such other persons as he may specify, setting forth the time, place and purpose of the hearing. *New*. Notice of hearing

9.—(1) Upon the hearing convened under section 8, the Director may dispose of any objection in such manner as he considers just and equitable under the circumstances and may, by order, confirm the location of the boundary or boundaries as shown on the plan of survey, or, if he thinks proper to do so, may order that the survey and plan be amended in such manner as he may direct, in which case he may confirm the location of the boundary or boundaries as shown on the plan as so amended. R.S.O. 1970, c. 48, s. 11 (1), *part*. Hearing and confirmation

Recording of
evidence

(2) The oral evidence taken before the Director at a hearing shall be recorded and, at the request of a party to the hearing, a copy of the recording shall be furnished to the party upon payment of the prescribed fee. *New.*

Monuments

10. The Director may order the removal of any monument that conflicts with any boundary confirmed under this Act. R.S.O. 1970, c. 48, s. 18, *amended.*

Costs

11.—(1) An applicant under this Act is liable *prima facie* to pay all costs, charges and expenses of and incidental to the application. R.S.O. 1970, c. 48, s. 4 (2), *amended.*

Flem

(2) Upon the hearing convened under section 8, the Director may order costs to be paid by or to any person who is a party to a proceeding under this Act. R.S.O. 1970, c. 48, s. 11 (2), *amended.*

Appeal from
Director's
decision to
Divisional
Court

12.—(1) Any party aggrieved by an order of the Director made under subsection 1 of section 9 or under section 11 may appeal to the Divisional Court.

Power
of court

(2) The Divisional Court, on an appeal from an order of the Director, may,

(a) where the appeal is from an order under subsection 1 of section 9, decide the matter on the evidence before it or direct the trial of an issue or may dismiss the appeal or order that the survey and plan be amended and confirm the location of the boundary or boundaries as shown on the amended plan; and

(b) where the appeal is from an order as to costs under section 11, annul or, with or without modification, confirm the order.

Notice of
appeal

(3) Notice of an appeal under this section shall be filed by the appellant with the court and a copy of the notice shall be served upon the Director and the other parties to the proceedings before the Director within thirty days after the date of mailing of the order of the Director to the party appealing. R.S.O. 1970, c. 48, ss. 11 (3), 12; 1971, c. 50, s. 13 (4), *amended.*

Certificate
of
confirmation

13.—(1) When the period of thirty days mentioned in subsection 3 of section 12 has elapsed and no appeal has been taken or after an appeal, if taken, has been disposed of and the surveyor has complied with section 14, the Director shall certify the confirmation of the location of the boundary or boundaries as shown on the plan of survey as confirmed by the Director or the court, as the case may be.

(2) When any boundary has been certified under subsection 3 of section 8 or under subsection 1 of this section, the certificate is conclusive that the application and every notice, proceeding and act that ought to have been made, given or done has been made, given or done in accordance with this Act. R.S.O. 1970, c. 48, s. 13, *amended*. Effect of confirmation

14. Notwithstanding *The Surveys Act*, when the boundary or boundaries shown on the plan have been confirmed and no appeal has been taken or after an appeal, if taken, has been disposed of, the surveyor shall deposit the plan and original field notes of the survey with the Director. R.S.O. 1970, c. 48, s. 7 (3), *amended*. Deposit of plan and field notes
R.S.O. 1970, c. 453

15.—(1) The boundaries confirmed and certified by the Director and defined by the monuments shown on the plan under this Act shall, notwithstanding any other Act, be deemed to be the true boundaries of the parcel. Effect of certificate

(2) Nothing in this Act affects the establishment or re-establishment of lines under *The Surveys Act*, other than the boundaries confirmed and certified under this Act. R.S.O. 1970, c. 48, s. 14, *amended*. Saving

16.—(1) When a boundary as shown on a plan of survey has been confirmed and certified under this Act, the Director shall cause the plan or a copy thereof to be registered in the proper land registry office. Registration of plan

(2) Upon receipt of the plan or a copy for registration, the land registrar shall register it and shall record it in the title register or abstract index for each parcel that adjoins a boundary that has been confirmed. Idem

(3) A plan registered under this section supersedes all corresponding portions of all former registered plans and descriptions. R.S.O. 1970, c. 48, s. 16 (1-3), *amended*. Effect of registration

17. A plan certified under this Act may be registered under *The Land Titles Act* or *The Registry Act*, as the case may be, without any approval under *The Planning Act*. R.S.O. 1970, c. 48, s. 17, *amended*. Right to registration
R.S.O. 1970, cc. 234, 409, 349

18.—(1) Upon the filing of evidence satisfactory to the Director and upon either giving such notice to interested persons as he considers appropriate, or *ex parte*, he may order the correction of any inconsistency, error or omission in a plan that has been certified and registered under this Act or a predecessor thereof. Corrections of errors and omissions

(2) No correction pursuant to this section shall affect the location of a boundary confirmed and certified under this Act or a predecessor thereof. *New.* Proviso

Reduction
of fees.

19. Where in the opinion of the Director the fees payable on an application under this Act are unduly excessive, having regard to all the circumstances, the Director may reduce the fees to such amount as he considers appropriate. R.S.O. 1970, c. 48, s. 21.

Application
to Crown

20. This Act binds the Crown. *New.*

Regulations

21. The Lieutenant Governor in Council may make regulations,

- (a) governing standards and procedures for surveys and plans made for the purposes of this Act;
- (b) prescribing the manner of making an application for confirmation of the location of boundaries and the material to be submitted with the application;
- (c) requiring any information in connection with any application, evidence or procedure to be verified by affidavit or declaration;
- (d) requiring the payment of fees and prescribing the amounts thereof;
- (e) prescribing one or more methods by which notice of a hearing under this Act may be given;
- (f) prescribing forms and providing for their use;
- (g) prescribing the manner of making an objection to the location of the boundary or boundaries as shown on the plan of survey and the material to be submitted with the objection;
- (h) prescribing administrative procedures for the purposes of this Act;
- (i) governing the manner of recording oral evidence and the manner of providing copies thereof;
- (j) prescribing the procedures to be followed by land registrars with respect to matters under this Act;
- (k) respecting costs and the taxation thereof; and
- (l) governing the correction of plans under section 18. R.S.O. 1970, c. 48, s. 20, *amended*.

Transition

22.—(1) Notwithstanding section 23, where, prior to the coming into force of this Act, notice of an application has been

given pursuant to subsection 1 of section 9 of *The Boundaries Act*, being chapter 48 of the Revised Statutes of Ontario, 1970, the application shall be continued as if that Act had not been repealed.

(2) Where, prior to the coming into force of this Act, the Director received an application under section 4 of *The Boundaries Act*, being chapter 48 of the Revised Statutes of Ontario, 1970, but no notice of the application has been given under subsection 1 of section 9 of that Act, the application, upon the coming into force of this Act, shall be taken up and continued in conformity with this Act. Idem

23. The following are repealed:

Repeals

1. *The Boundaries Act*, being chapter 48 of the Revised Statutes of Ontario, 1970.
2. Section 13 of *The Civil Rights Statute Law Amendment Act, 1971*, being chapter 50.
3. Section 29 of *The Government Reorganization Act, 1972*, being chapter 1.

24. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

25. The short title of this Act is *The Boundaries Act, 1980*. Short title

